



2 May 2024

THE PROPERTY PRACTITIONERS REGULATORY AUTHORITY

63 Wierda Road East
Wierda Valley
Sandton
2196

Attention : Ms.Thato Ramaili, Acting CEO

RE: **BBBEE REQUIREMENTS FOR PROPERTY PRACTITIONERS AND SUBSEQUENT REFUSAL TO ISSUE FIDELITY FUND CERTIFICATES**

Dear Ms. Ramaili,

1. The above matter refers.
2. As a point of departure, it acknowledged that The Property Practitioners Act (“PAA”) has, as one of its main objectives, at heart, the transformation of the property sector.
3. Section 50(a)(X) of the PAA provides that the Authority may not issue a valid Fidelity Fund Certificate to any person who is not in possession of a valid BEE Certificate.
 - 3.1 It is however vital at this junction to emphasize that, upon our reading and interpretation of the PAA, no specific BEE requirements are set out in the PAA, nor is any guidance provided to property practitioners as to exactly what the BEE requirements for property practitioners entail. The PAA merely mentions that a property practitioner may not be issued with a Fidelity Fund Certificate (“FFC”) if the property practitioner is not in possession of a valid BEE Certificate.



4. As you are aware, there are 3 (Three) categories for BBEE namely:
 - 4.1 Exempt Micro Enterprises;
 - 4.2 Qualifying Small Enterprises; and
 - 4.3 Generic Enterprises.
5. These aforementioned categories are further determined by a business's annual turnover, with Exempt Micro Enterprises having the smallest annual turnover at less than R 2 500 000.00 (Two Million Five Hundred Thousand Rand) and Generic Enterprises having the largest annual turnover at more than R 35 000 000.00 (Thirty-Five Million Rand).
 - 5.1 In this regard it is vital to emphasize that a majority of property practitioners within South Africa fall within the categories of an Exempt Micro Enterprise or a Qualifying Small Enterprise.
6. We further confirm that a valid BEE certificate is issued by proper verification and registration with the South African National Accreditation System ("SANAS"), which does not require any specific minimum scores.
 - 6.1 SANAS merely provides that a company is either compliant or exempted from the requirements of BEE when issuing a BEE certificate.
7. We have however noted a concerning shift in the PPRA's requirements for the next round of FFC's to be provided for 2025, due to the following:



- 7.1 At the webinar hosted by the PPRA on the 13th of March 2024, with speakers Deli Nkambule – Legal Manager and Acting Transformation Manager at the PPRA – and Chris Dykes – CEO of Infinity Learning – much was said amount BEE certificates in the property industry;
- 7.2 Del Nkambule stated in the Webinar that “the PPRA’s position is that it will not issue a FFC unless the property practitioner’s BEE certificate accompanies the property practitioners’ application for a FFC to be issued”; and
- 7.3 It was further noted that the accepted level of compliance will be 40 points or more (BEE Level 8) and that a BEE certificate, and subsequent FFC, will not be issued if a property practitioner’s BEE score is below 40 (BEE Level 8).
8. Again, it is imperative to highlight that this Level 8 requirement is not a prerequisite in terms of the PAA, as same merely requires a valid BEE Certificate, and makes no mention of the specific requirements for a property practitioner insofar as a specific level of BEE compliance is concerned.
9. It is further vital to highlight as an example that Exempt Micro Enterprises may still be issued with a valid BEE Certificate from SANAS – without adhering to the Level 8 requirement – and therefore still be full compliance of the PAA. Yet, from the aforementioned meeting the PPRA indicated that Level 8 BEE Certificates will be an absolute compliance, then rendering these property practitioners unable to obtain a valid FFC – although they still adhere to all requirements contained in the PAA.
10. Upon our internal research, we have concluded that in the previous round of FFC’s that were issued, almost 6 000 (Six Thousand) property practitioners fall well below the proposed BEE Level 8 requirement. If these property practitioners are now refused a FFC for 2025, it will be catastrophic for the property industry as a whole.



11. As you are aware, our offices are privileged to represent a considerable amount of Managing Agents and property practitioners within the industry, enabling us to actively engage with your offices on behalf of our members, for clarification pertaining to BEE requirements and subsequent FFC's for property practitioners.
12. Regrettably however, our offices have received various complaints from our members regarding the recent decision from the PPRA to change the BEE requirements for property practitioners, and the subsequent effect hereof on our members' FFC certificates.
13. In the premise, we have been instructed by our members to actively engage with the PPRA to obtain clarification pertaining to these requirements, and kindly invite the PPRA to schedule a meeting with our offices and members at your convenience, to discuss the amplifications of the recent decision to have an increase in the BEE requirements of property practitioners.
 - 13.1 In this regard we invite the PPRA to propose 3 (three) potential dates and times for the aforementioned meeting to be held and confirm that our offices will avail ourselves around the PPRA's convenience.
14. We further confirm that, on the instructions of our members, if no clarification is received from the PPRA pertaining to the BEE requirements, our offices will be forced to seek alternative avenues of recourse for clarification, which may regrettably include approaching the relevant court and/or forum for their urgent assistance.
15. We are however cognisant of the established relationship between our offices and the PPRA, and remain optimistic that such drastic measures will not be necessary, and look forward to receiving cooperation and engagement from the PPRA herein.



16. We trust you find the above in order and await your further correspondence herein.

Yours sincerely

Glen Smit

NAMA National Chairperson

